IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

CRP.No. 480 of 2007()

OPELE.269/2003 of ADDL.DISTRICT COURT (ADHOC)-II, ERNAKULAM

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REVN. PETITIONERS: RESPONDENTS;

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1. KERALA STATE ELECTRICITY BOARD
   REP.BY ITS SECRETARY, VYDHYUTHI BHAVAN,
   PATTOM, THIRUVANANTHAPURAM.

2. THE DEPUTY TAHSILDAR (L.A),
   K.S.E.B, POWER HOUSE, M.G.ROAD, ERNAKULAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENT: PETITIONER:

SRI.PAILY VARKEY, S/O.VARKEY,
KARUKAPILLIYIL, PERINGOLE KARA, KILENCHERY,
ALIKKARANADU NORTH VILLAGE.

BY ADV. SRI.P.V.BABY
SRI.GEORGE KURUVILLA

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.480 of 2007

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Dated this the 15th day of October, 2007.

ORDER

This revision is preferred against the order of the Additional district Judge (Adhoc-II), Ernakulam in O.P. (Ele) No.269 of 2003. The court below had granted an additional compensation of Rs.26,146/- with 6% interest from the date of petition till realisation. The court below relied on a decision of the Full Bench of this Court reported in **Kumba Amma** v. **K.S.E.B.** - 2000(1) K.L.T. 542 and revised calculation was done in accordance with the dictum laid down in the said decision. The matter was considered by the Apex Court in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1. The Apex Court had given the following guidelines:

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be

> determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

Ultimately the Apex Court held that the High Court should consider the matter afresh on the merit of each matter having regard to the factual situation obtaining therein.

2. So, in the light of the said dictum laid down by the Apex Court, each matter has to be decided on the facts and circumstances of that case bearing the principle and the methodology suggested by the Apex Court. Therefore, the order under challenge has to be set aside and the matter has to be remitted back to the court below for fresh consideration. I make it clear that if the respondent in the revision petition is to able to establish more about the loss he has sustained that also may be considered by the court afresh in the light of the principles laid down in the decision referred to above. Both parties are

permitted to adduce fresh evidence in support of their respective contentions and after hearing the matter, the court shall dispose it of in accordance with law. Being an old matter, the court below shall try and dispose of the matter as expeditiously as possible. Parties are directed to appear before the court below on 19.11.2007.

Civil Revision Petition is disposed of as above.

M.N.Krishnan,
Judge.

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